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OPINION NO. 85-100

April 8, 1985

The Honorable Jerry Jewell
State Senator
1813 Pulaski Street
Little Rock, Arkansas 72206

Dear Senator Jewell:

Under date of February 21, 1985 you have written to request a formal Attorney General's opinion on three questions. I am pleased to comply with your request with the following judgments. You have asked:

1. If I, as a Justice of the Peace, a part of the Legislative branch of County Government, have the same access to any documents as the County Judge?

The answer to this question is "yes", as to any documents which are kept in the normal course of business. Under Act 742 of 1977, the enabling legislation that put into force Amendment 55 to the Arkansas Constitution, the Quorum Court, which is composed of elected Justices of the Peace, was given separate but co-equal status with the County Judge, who serves as the county administrator. Section (7) of Arkansas Statute §17-4002 reads as follows: "Legislative Affairs. All legislative affairs of a Quorum Court shall be conducted through the passage of ordinances, resolutions or motions." It is my judgment that it would be difficult for a Quorum Court to act if it is denied access to needed information.

2. If a private Company that has applied for Public dollars (grant) and receive these monies, does the Public have the right to review their application? Which may or may not include personal and/or financial statements?

The answer to this question is also "yes". Act 93 of 1967, as amended, The Freedom of Information Act, defines Public Records as follows: "Public Records are writings, recorded sounds, films, tapes, or data compilations in any form (a) required by law to be kept, or (b) otherwise kept and which constitute a record of the performance or lack of performance of official functions which are or should be carried out by a public official or employee, a governmental agency or any other agency wholly or partially supported by public funds or expending public funds."

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It is my judgment that this definition means that when a private company solicits public money, they do so at the expense of public scrutiny.

Although the Freedom of Information Act contains two exceptions to the full disclosure of open public records that possibly could be construed to fit the situation at hand, I do not believe they are germane in this instance.

3. It has been said that some information as it relates to grant applications may be privileged. Is there ever a time where if the information is indeed privileged, that the Quorum Court cannot have access to this information? Why?

I am not aware of any Arkansas Statutes that would preclude grant applications from the Freedom of Information Act.

Sincerely,



STEVE CLARK
Attorney General

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